

ORIGINAL FILED

January 22 2010

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 09-0402

STATE OF MONTANA,

Plaintiff and Appellee,

v.

ROBERT HOUGHTON,

Defendant and Appellant.

FILED

JAN 22 2010

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

**MOTION FOR EXTENSION OF TIME AND  
AFFIDAVIT IN SUPPORT**

The Appellee, State of Montana, respectfully requests an extension of time until March 4, 2010, in which to prepare, serve, and file its response brief in the above-entitled matter. In support of this motion, undersigned counsel respectfully submits the following affidavit.

Respectfully submitted this 22nd day of January, 2010.

STEVE BULLOCK  
Montana Attorney General  
P.O. Box 201401  
215 North Sanders  
Helena, MT 59620-1401

By: *Micheal Wellenstein*  
MICHEAL S. WELLENSTEIN  
Assistant Attorney General

STATE OF MONTANA            )  
                                              : ss.  
County of Lewis and Clark    )

I, Micheal S Wellenstein, being first duly sworn upon my oath, depose and state as follows:

1. I am an Assistant Attorney General for the State of Montana and have been assigned to prepare the State's response brief in the above-entitled matter.

2. The Appellee's brief was originally due on December 30, 2009. This Court has previously granted the Appellee one 30-day extension of time to file its brief. The Appellee's brief is presently due on January 29, 2010.

3. Due to my past and present workload, I cannot meet the present deadline for filing the Appellee's response brief. My workload is as follows:

(a) State v. Anderson, Mont. Sup. Ct. No. DA 09-0160, State's brief filed on December 8, 2009;

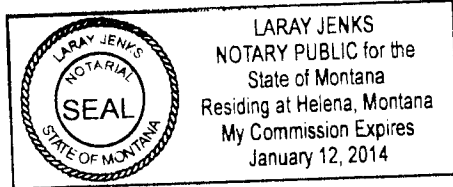
(b) State v. Bustle, Mont. Sup. Ct. No. DA 09-0477, State's brief filed on January 13, 2010; and

(c) Worthan v. State, Mon. Sup. Ct. No. DA 09-503, State's brief due on February 2, 2010.

4. The Appellate Defender's Office has been contacted concerning this motion, and they have no objection.

  
MICHEAL S. WELLENSTEIN

SUBSCRIBED AND SWORN to before me this 22nd day of January, 2010.



  
LARAY JENKS

**CERTIFICATE OF SERVICE**

I hereby certify that I caused a true and accurate copy of the foregoing Motion for Extension of Time to be mailed to:

Ms. Kelli S. Sather  
Assistant Public Defender  
Region 2-Missoula  
610 N. Woody  
Missoula, MT 59802

Mr. Marty Lambert  
Gallatin County Attorney  
1709 W. College  
Bozeman, MT 59715

DATED: 1/29/2010 